



Ninety-Eighth Legislature - Second Session - 2004
Committee Statement
LB 906

Hearing Date: January 22, 2004

Committee On: Health and Human Services

Introducer(s): (Stuhr, Combs, Foley, Hudkins, Kruse, McDonald, Price, Schimek, Redfield, Stuthman)

Title: Provide for licensure and regulation of body artists

Roll Call Vote – Final Committee Action:

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

Vote Results:

7	Yes	Senator Jensen, Byars, Cunningham, Maxwell, Erdman, Johnson and Stuthman
	No	
	Present, not voting	
	Absent	

Proponents:

Senator Stuhr
David Buntain
Mel Thorstensen

Representing:

Introducer
Nebraska Medical Association
Self

Opponents:

Representing:

Neutral:

Joseph Smith
Monty Vogel
Mark Kenne

Representing:

Self
Self
Lincoln/Lancaster County Health Department

Summary of purpose and/or changes: The bill provides for the licensure and regulation of body art and body art facilities under the Nebraska Cosmetology Act (act). The bill defines terms.

The bill prohibits any person from performing tattooing, body piercing, or branding, or displaying a sign or in any other way advertising or purporting to be a permanent color technician and tattoo artist or to be in the business of body piercing or branding unless he or she is licensed by the Board of Cosmetology (board).

An applicant for licensure must: (1) comply with the act and rules and regulations adopted and promulgated under the act; (2) be at least eighteen years of age; (3) have a high school diploma or its equivalent; and (4) have submitted evidence of completion of education or training prescribed and approved by the board.

No person may operate or profess or attempt to operate a body art facility unless the facility is licensed by the department under the act. The department may not issue or renew a license for a body art facility until all requirements of the act have been complied with. No person may engage in any of the practices of body art in any location or premises other than at a licensed body art facility. The board is required to issue licenses to qualified applicants. A licensee must notify the board in writing of the regular address of the place or places where the licensee performs or intends to perform body art.

A permanent color technician and tattoo artist and a person performing body piercing or branding must: (1) meet applicable sanitation standards adopted by the board; (2) use appropriate sterilizing equipment, with available hot and cold running water and a covered waste receptacle; (3) keep case history cards for each client for five years; and (4) comply with any other standards established by the board in rules and regulations.

To maintain licensure as a body art facility, the facility must: (1) comply with all applicable provisions of the act and all rules and regulations adopted and promulgated under the act; (2) notify the department at least thirty days prior to any changes of ownership, name, or address, and within one week after a facility is permanently closed, except in emergency circumstances as determined by the department; (3) not permit anyone other than an appropriately licensed or registered person to perform any type of body art to members of the general public on its premises; (4) display a sign at each counter or area used for such purposes indicating that it is a licensed body art facility and that all persons performing body art at the facility are appropriately licensed or registered; (5) permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during normal operating hours, without prior notice, and assist the inspector by providing access to all areas, personnel, and records requested by the inspector; and (6) display the following records in a conspicuous place near the place where body art is performed: (a) the current license to operate a body art facility, (b) the current licenses or registrations of all persons performing body art at the facility, and (c) the rating sheet from the facilities most recent operation inspection.

Each body art facility license expires and is subject to renewal on September 30 of each odd-numbered year. No license may be renewed unless the facility has attained a rating of satisfactory on its most recent operation inspection. Any facility that does not meet such requirement must have its license placed on inactive status until all identified deficiencies have been corrected and may not be open to the public while the license is on such status. The license of a body art facility that has been revoked may not be reinstated. An original application for licensure must be submitted and approved before the facility may reopen to business.

Each body art facility license only attaches to the owner or owners and premises named on the license. The license lapses upon any change in ownership or location, and an original application for licensure must be submitted and approved before the facility may reopen for business. The owner of each body art facility is responsible for ensuring that the facility is operated in compliance with all applicable laws, rules and regulations, and is liable for any and all violations occurring at the facility.

The bill prohibits any person from performing body art on or to any person under the age of eighteen without the prior written and notarized consent of the person's parent or court-appointed guardian. The person giving consent must be present during the procedure. The

written permission and a copy of the letters of guardianship, when permission is given by a guardian, must be retained for five years by the person performing the body art. Violation is a Class III misdemeanor.

Nothing in the act may be construed to authorize a person performing body piercing to implant or embed foreign objects into the human body or otherwise to engage in the practice of medicine and surgery.

The bill becomes operative on January 1, 2005.

Explanation of amendments, if any: The committee amendment (AM 2249) replaces the bill as introduced but retains essential substantive provisions of the bill. The amendment provides for the licensure and regulation of body art and body art facilities under the Nebraska Cosmetology Act (act). The amendment adds and amends definitions.

Licensure is required before any person may engage in the practice of body art (sections 26 and 33). Body art includes body piercing, tattooing, body branding, and permanent color technology. A license to practice body art expires and is subject to renewal on March 31 of each odd-numbered year (section 28). Registration as an apprentice in body art expires upon successful completion of a licensing examination or termination of the apprenticeship (section 32).

Section 34: An applicant for licensure to practice body art must: (1) comply with the act and rules and regulations adopted and promulgated under the act; (2) be at least 18 years of age; (3) have a high school diploma or equivalent; and (4) pass an examination approved, administered, or recognized by the Board of Cosmetology (board) and: (a) for body piercing, complete training under the direct supervision of a person in the state designated by the board or equivalent training in another jurisdiction approved by the board, (b) for branding, complete training under the direct supervision of a person in the state designated by the board or equivalent training in another jurisdiction approved by the board, (c) for permanent color technology, complete training under the direct supervision of a permanent color technician in the state designated by the board or equivalent training in another jurisdiction approved by the board, and (d) for tattooing, complete training under the direct supervision of a tattoo artist in the state designated by the board or equivalent training in another jurisdiction approved by the board.

Applicants for licensure must pass a practical examination conducted by the board to test the applicant's knowledge of infection control practices and requirements, including appropriate safety, sanitation, and sterilization techniques.

Persons performing body art prior to January 1, 2005 may continue to practice for ninety days after such date if they apply for licensure with the Department of Health and Human Services Regulation and Licensure (department) within that period and provide documentation of 6,000 hours of experience satisfactory to the department.

Section 35: An applicant for registration as an apprentice in body art must show evidence that he or she is at least 18 years of age, has completed the equivalent of a high school education, has been accepted for training by a person designated by the board for the practice of body art being studied, and has not undertaken any training in body art after January 1, 2005, without being registered as an apprentice.

Section 36: Licensure is required for the operation of body art facilities. A facility inspection is required prior to licensure. Persons engaged in the operation of a body art facility prior to January 1, 2005 may continue to operate such facility for ninety days after such date if

they apply to the department for licensure within that period and the department issues a satisfactory rating after inspecting the facility.

Section 37: Persons engaged in performing body art must: (1) meet applicable sanitation standards adopted by the board; (2) use appropriate sterilizing equipment, with available hot and cold running water and a covered waste receptacle; (3) keep case history cards for each client for five years; and (4) comply with other standards adopted and promulgated by the board in rules and regulations.

Section 38: To maintain licensure in good standing, body art facilities must: (1) comply at all times with applicable provisions of the act and rules and regulations adopted and promulgated under the act; (2) notify the department at least thirty days in advance of any change in ownership, name, or address, and within one week after permanently closing the facility, except in emergency circumstances as determined by the department; (3) not permit anyone other than an appropriately licensed or registered person to perform any type of body art to members of the general public at the facility; (4) comply with all safety, sanitation, and sterilization standards by means of an inspection by the board; (5) permit any duly authorized agent of the department to conduct an operation inspection or investigation at any time during normal business hours, without prior notice, and assist the inspector by providing access to all areas, personnel, and records requested; and (6) display in a conspicuous place the current facility license, the current licensure or registration of all persons performing body art at the facility, and the facility's most recent inspection report.

Section 39: Licenses for body art facilities expire and are subject to renewal on March 31 of each odd-numbered year. A facility license may not be renewed unless the facility has attained a rating of satisfactory on its most recent operation inspection. The license must be placed on inactive status until all identified deficiencies are corrected, and the facility may not be open to the public while the license is on such status. A facility license that has been revoked may not be reinstated, and an original application for license must be submitted and approved before the facility may reopen for business.

Section 40: A body art facility license attaches only to the owner or owners and premises named on the license. The license automatically lapses upon any change in ownership or location. An original application for licensure must be submitted and approved before the facility may reopen for business. The owner of the facility has full responsibility to ensure that the facility is operated in compliance with applicable laws and rules and regulations, and is liable for any and all violations at the facility.

Section 45: It is unprofessional conduct under the act for any person to (1) violate any rule or regulation relating to the practice of or instruction in the practice of body art or (2) perform body art on or to any person under the age of eighteen without (a) prior written and notarized consent of the person's parent or guardian, (b) the presence of such parent or guardian during the procedure or (c) retaining such written permission and letter of guardianship, if applicable, for at least five years.

Section 47: No person may perform body art on or to any person under eighteen years of age without the prior written and notarized consent of the person's parent or court-appointed guardian. The person giving consent must be present during the procedure. The written permission and a copy of the letters of guardianship, when permission is given by a guardian, must be retained for five years by the person performing the body art. Violation is a Class III misdemeanor.

Section 48: Nothing in the act may be construed to authorize a person performing body piercing to implant or embed foreign objects into the human body or otherwise to engage in the practice of medicine and surgery.

Section 49: The governing body of a county, city, or village may impose further requirements on the performance of body art or the operation of a body art facility that are at least as stringent as or more stringent than those of the act.

Sections 33 and 36 of the amendment become operative on January 1, 2005.

Senator Jim Jensen, Chairperson